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10/702,051	11/06/2003	Jorge Melgosa	059643.00353	7417
32294 7590 12/12/2008 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT DRIVE 14TH FLOOR VIENNA, VA 22182-6212				
EXAMINER				
SHEDRICK, CHARLES TERRELL				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/702,051

Applicant(s)

MELGOSA, JORGE

Examiner

CHARLES SHEDRICK

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-11, 13 and 19-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-11, 13 and 19-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims **1, 4-11, 13, and 19-41** have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **13 and 19-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over **3GPP TS 32.215v 4.00 (2001-09)**, hereinafter, “**3GPP**” in view of **Lialiamou WO 02/098099 A1**

Consider claims **13, 19, and 41**, 3GPP teaches a method, gateway communication node, and node means comprising: storing, in a first memory, information identifying one of a plurality of charging nodes associated with a communication session of a communications system as a default charging node to which a first communications node is to send charging information for

said session (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory**); and sending said charging information for said session from said first communications node to said default charging node when said default charging node is available (e.g., **see paragraphs, 4 , 5 and Annex A**) ; and billing in the communications system based on said charging information (e.g., **see scope**).

However, 3GPP (i.e., the version noted above) does not specifically teach after a period during which said default charging node is unavailable regardless of availability of any other charging node.

In analogous art, Lialiamou teaches after a period during which said default charging node is unavailable regardless of availability of any other charging node (e.g., **see at least figure 4 and description**).

Therefore, it would have been obvious at the time the invention was made to modify 3GPP to include after a period during which said default charging node is unavailable regardless of availability of any other charging node for the purpose of charging as taught by Lialiamou.

Consider **claim 20 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein said node is configured to send said information identifying said default charging node in said memory to a second node (e.g., **see Paragraphs 4,5, and Annex A**).

Consider **claim 21 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: sending charging information from a second communications node to said default node (e.g., **see Paragraphs 4, 5, and Annex A**).

Consider **claim 22 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches

the claimed invention further comprising: storing in a second memory said information identifying said default charging node (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory).**

Consider **claim 23 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: maintaining said first memory and said second memory so that the information identifying the default charging node is the same (e.g., **see Annex A default profiles are maintained**)

Consider **claim 24 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: sending said information identifying said default charging node in said first memory to a second node (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory).**

Consider **claim 25 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: generating charging information for a packet data connection (e.g., **see Paragraphs 4, 5, and Annex A**); and selecting said default charging node in dependence on the communication session with which the packet data connection is associated(e.g., **see Paragraphs 4, 5, and Annex A**).

Consider **claim 26 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: storing information identifying said default charging node in said first memory in response to creating a first packet data connection for said communication session(e.g., **see Paragraphs 4, 5, and Annex A**).

Consider **claim 27 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: sending charging information to a secondary charging node when said default charging node is not reachable (e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 28 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches wherein said storing comprises selecting a charging node being currently determined as an active charging node and storing in said first memory said active charging node as said default charging node to be associated with the communication session(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 29 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention further comprising: configuring said session to comprise a plurality of packet data connections (e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 30 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches the claimed invention wherein said sending said charging information comprises sending a charging data record (e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 31 and as applied to claim 13**, 3GPP as modified by Lialiamou teaches wherein said node is a gateway general packet radio service support node (e.g., see **Annex A**).

Consider **claim 32 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches said node being configured to generate charging information for a packet data connection, and to select said default charging node in dependence on the communication session with which said packet data connection is associated(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 33 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein said memory is configured to store said information identifying said default charging

node in response to a creation of a first packet data connection for said communication session(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 34 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein the node is configured to send generated charging information of said session to said default charging node(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 35 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein the node is configured to send generated charging information to a secondary charging node when said default charging node is not reachable(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 36 and as applied to claim 35**, 3GPP as modified by Lialiamou teaches wherein said secondary charging node is a currently active charging node for said node (e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 37 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein the node is configured to select a charging node being currently determined as an active charging node for said node and to store in said memory said active charging node as said default charging node to be associated with said communication session(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 38 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein the node is configured to instruct a second node said assigned default charging node for said session(e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 39 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein said session comprises a plurality of packet data connections (e.g., see **Paragraphs 4, 5, and Annex A**).

Consider **claim 40 and as applied to claim 19**, 3GPP as modified by Lialiamou teaches wherein said charging information comprises a charging data record (e.g., see **Paragraphs 4, 5, and Annex A**).

Claims **1 and 4-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over **APA admitted prior art (MPEP 2129)** in view of **3GPP TS 32.215v 4.00 (2001-09)**, hereinafter, “**3GPP**” and further in view of **Lialiamou WO 02/098099 A1**

Consider **claim 1**, APA teaches a communications system (e.g., see **APA UMTS/GPRS system noted on page 2 line 13**), comprising: a first communications node (e.g., see **APA GGSN noted on page 2 lines 27-28**); a second communications node(e.g., see **APA SGSN noted on page 2 lines 26-28**); a plurality of charging nodes(e.g., see **APA noted on page 2 lines 13-24, a single network provided by a network provider may have several charging gateways**); said first node configured to send charging information to at least one of said charging nodes(e.g. , see **APA page 2 line 32 both the SGSN and GGSN pass CDRs to the charging gateways**),
said second node configured to send charging information to at least one of said charging nodes(e.g. , see **APA page 2 line 32 both the SGSN and GGSN pass CDRs to the charging gateways**).

However, APA does not specifically disclose a first memory; said first memory configured to store information identifying one of said charging nodes as being a default charging node for a communication session; wherein said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory, when said default charging node is available.

In analogous art, 3GPP teaches a first memory (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory**); said first memory configured to store information identifying one of said charging nodes as being a default charging node for a communication session (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory**); wherein said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory, when said default charging node is available (**paragraphs 4, 5 and Annex A**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify APA to include the functions of 3GPP for the purpose of enabling operators the ability to provide a commercially viable service as taught in the scope of 3GPP.

However, 3GPP (i.e., the version noted above) does not specifically teach after a period during which said default charging node is unavailable regardless of availability of any other charging node.

In analogous art, Lialiamou teaches after a period during which said default charging node is unavailable regardless of availability of any other charging node (e.g., **see at least figure 4 and description**).

Therefore, it would have been obvious at the time the invention was made to modify 3GPP to include after a period during which said default charging node is unavailable regardless of availability of any other charging node for the purpose of charging as taught by Lialiamou.

Consider **claim 4 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said communications system is a universal mobile telecommunications system architecture communications system (e.g., see **APA UMTS/GPRS system noted on page 2 line 13**).

Consider **claim 5 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said communications system is a general packet radio service architecture communications system (e.g., see **APA UMTS/GPRS system noted on page 2 line 13**).

Consider **claim 6 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said first communications node is a gateway general packet radio service support node (e.g., see **APA GGSN noted on page 2 lines 26-28**).

Consider **claim 7 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said second communications node is a serving general packet radio service support node (e.g., see **APA SGSN noted on page 2 lines 26-28**).

Consider **claim 8 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said at least one charging node comprises a charging gateway function (e.g., see **page 2 lines 18-20**).

Consider **claim 9 and as applied to claim 1**, APA as modified by 3GPP and further modified by Lialiamou teaches wherein said at least one charging node is a charging gateway (e.g., see **APA noted on page 2 lines 13-24, a single network provided by a network provider may have several charging gateways**).

Consider **claim 10 and as applied to claim 1**, APA teaches the claimed invention except wherein said first memory is located within said first or said second communications node.

However, in analogous art, 3GPP teaches wherein said first memory is located within said first or said second communications node (e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify APA to include the functions of 3GPP for the purpose of enabling operators the ability to provide a commercially viable service as taught in the scope of 3GPP

Consider **claim 11 and as applied to claim 10**, APA teaches the claimed invention except further comprising: a second memory located within the other of said first or second communications node, wherein said second memory is configured to store information identifying at least one of said charging nodes and said first memory is configured so that the value stored in said memory is synchronized with the value stored in said second memory.

However, in analogous art, 3GPP the claimed invention further comprising: a second memory located within the other of said first or second communications node(e.g., **Annex A teaches a charging profile, CGF address are used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory**), wherein said second memory is configured to store information identifying at least one of said charging nodes and said first memory is configured so that the value stored in said memory is synchronized with the value stored in said second memory(e.g., **Annex A teaches a charging profile, CGF address are**

used by and exchanged between the HLR, GGSN, and SGSN which is inherently stored in a memory).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify APA to include the functions of 3GPP for the purpose of enabling operators the ability to provide a commercially viable service as taught in the scope of 3GPP.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CHARLES SHEDRICK** whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles Shedrick/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617